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SOME NOTES ON THE TREATMENT OF THE ENGLISH CATHOLICS IN THE REIGN OF ELIZABETH

THE reign of Queen Elizabeth of England offers no more fascinating topic for historical research than the government's treatment of her Catholic subjects. Far from tolerant according to modern standards, the national attitude towards the Romanist was much gentler than that adopted towards dissenters from the state religion in most of the Continental countries at the same period; and the queen, on the whole, tended to be more lenient than her Council and her Parliament. Many and various were the methods in which the problem was handled at different stages of the reign, but there is one fundamental principle of the government's policy which remains unchanged throughout: solicitude for the material comfort and political welfare of the realm, rather than religious enthusiasm or zeal for unity of the faith, is ever the consideration of paramount importance. To sacrifice the national prosperity, political, financial or economic on the altar of ecclesiastical polity and dogma (as had been frankly done in the preceding reign), was the furthest possible thing from the minds of Queen Elizabeth and her Council; the measures which they took against the English Romanists were all primarily intended to promote the safety and strength of the realm or to enrich the crown. The contrast with the policy of contemporary Spain or of France under Louis XIV. is striking and significant: while these nations lacerated and impoverished themselves in the excess of their religious zeal, the peace and material comfort of England were preserved in a manner which makes her history in the sixteenth century unique in the annals of the Reformation.

At every turn we encounter evidences of this fundamental principle of the government's policy towards the Romanists—of the entirely practical nature of the considerations which controlled it. Let us take a few examples. In the first place, it is a noteworthy fact that the periods of greatest anti-Catholic activity on the part of the authorities coincide with, or follow closely after, serious political crises, when the safety of the realm or the life of the queen, are endangered by hostile developments abroad or by

rebellions and plots at home. The bulk of the anti-Catholic legislation passed in the Elizabethan parliaments falls in the years 1571–1572, 1581 and 1585–1587—in other words directly after the Rising of the Earls, the Norfolk and Ridolfi plots, after the advent in England of the Jesuits Campion and Parsons, or at the time of Leicester's expedition to the Netherlands, the Babington conspiracy and the execution of the Scottish queen and the immediate prospect of the sailing of the Spanish Armada. And it is not only that the acts are passed at crises like these; it is at these same crises that the authorities bestir themselves most actively to enforce them. In times of comparative quiet, many of the provisions of the penal laws were suffered practically to fall into abeyance, but when the realm was in danger, they were well-nigh certain to be revived. Secondly, in the acts themselves, and still more in the matter of their enforcement, a sharp distinction was drawn between the ardent papist, who actively endeavored to promote the restoration of Roman authority and jurisdiction within the realm, and the mere adherent of Catholic doctrine and ritual, the recusant,¹ who, if he did not frankly acknowledge the ecclesiastical supremacy of the crown, was passive also on the question of that of the pope. The latter was practically unmolested during the first twenty-three years of the reign and even after 1581 the statutes passed against him were by no means always rigidly enforced. For the former, who was a rebel as well as a nonconformist, harsher penalties were decreed, and moreover the authorities took far more pains to carry them into effect. But queen and Council were obviously reluctant to persecute for religion's sake alone. Thirdly, in the fact that the government's favorite penalties were fines and confiscations, and that it was clearly the intention of the authorities to make the Catholics pay the expenses of their own supervision and restraint, and if possible a little more, we have not only a characteristic example of Tudor finance, but also another striking evidence of the fundamental principle above laid down. Torture, death penalties and banishments, punishments frequently applied to religious nonconformists on the Continent, were in England sparingly used, and for the most part only in exceptional cases and for special purposes; their extreme severity, and above all the expense and economic and financial exhaustion which they entailed, were rightly judged by the government to be injurious to the weal of the state. Fourthly, it is highly significant, in the same connection, to note

¹ I use this word throughout this article in its more specific and restricted sense—*i. e.*, a Catholic who refused to attend divine service in an Anglican church.

the sharp contrast between the government's policy towards the Protestant nonconformists or Puritans, and towards the Catholics, in its choice in times of special danger between the alternative policies of exile, and of retention, segregation and supervision in England. In general it may be said that the authorities tended more and more as the reign progressed to drive the Puritans from the land as "factious disturbers" of the state, while the policy adopted towards the Catholics was the reverse; from 1572 onward the government attempted, at all important crises, to keep them under strict watch, *within* the realm. This contrast does not come into full view until the year 1593, when both methods of procedure (the one for the Puritans, the other for the Catholics) are definitely formulated in acts passed in Parliament;² but at least twenty years earlier, the establishment of certain places of segregation—notably Ely, Broughton in Oxfordshire and Wisbeach in Cambridge³—to which the recusants were ordered to repair for a sort of easy confinement in times of special danger, gives evidence, at least on the Catholic side, of a tendency in that direction. The chief reason for the above-mentioned contrast in policy is obvious, and brings into clear relief the government's paramount interest in the political safety and welfare of the realm. By exiling the *Puritan*, England would be rid of a contentious disturber and yet would not need to fear his machinations abroad, for he would be destitute of friends and supporters in Continental Europe. To let the *Catholic* escape to France or Spain on the other hand would be highly dangerous, as he would be sure to find friends there to aid and abet any hostile plan or expedition he might conceive against his native land; safer by far, therefore, to permit the Romanist to remain in England under careful supervision.⁴ And lastly, the chief exception to the policy

² 35 Eliz. cc. I. and II.

³ The earliest mention of Wisbeach Castle as a place for the confinement of religious prisoners is a letter of the Council to the Bishop of Ely, March 11, 1571/2. *Acts of the Privy Council*, VIII. 73. Cf. also T. G. Law, *Jesuits and Seculars in the Reign of Queen Elizabeth* (1889).

⁴ One obvious exception to this general rule is of course the provision in an act of the year 1585 (27 Eliz. c. II.) whereby all Jesuits and seminary priests were ordered to depart from the realm within forty days after the close of the Parliamentary session. But this exception does not militate against the validity of the general proposition that the government's treatment of the English Catholics was dictated primarily by political expediency; if anything it tends to strengthen it. Jesuits and seminary priests were in a class by themselves, absolute irreconcilables, whose proselytizing in England would do more harm than their plotting on the Continent; it was doubtless safer to expel them at once. The two other exceptions to the general rule of procedure, hereafter to be noted in the text, also favor this interpretation.

of retaining, segregating and supervising the Catholics in England which has just been described is as significant a proof of the government's solicitude for the material welfare of the realm, as could be desired. In the Act of 1593 "against Popishe Recusantes" (the main purport of which was to provide means for the retention of the ordinary Catholic in England) a paragraph was inserted ordaining that very poor recusants (whose total property was of less annual value than twenty marks) should abjure the realm "to the end", as the statute frankly says, "that the Realme be not pestered and overcharged with the multitude of suche seditious and daungerous people . . . whoe havinge litle or no habilitie to answere or satisfie any competent penaltie for their contempte and disobedience of the . . . Laws and Statutes, and beinge commytted to Prison for the same, doe lyve for the moste parte in better case there, then they colde yf they were Abrode at their own libertie"⁵—a striking comment, this, on Elizabethan finance—the man who could not pay for his keep must not be suffered to burden the realm, the more so as his very poverty would be the surest of guarantees against his ability to breed trouble for England abroad. Such are some of the principal evidences of the chiefly practical nature of the considerations that controlled the government's Catholic policy.

It has just been pointed out that in the case of very poor recusants, the usual practice of fining, retaining and segregating the English Catholics within the realm was abandoned because it did not pay. There were also certain special crises when this same generally successful policy broke down and had to be abandoned because it was inadequate and unsuccessful. Such a crisis occurred in the early eighties, when the failure of the first serious efforts to enforce the recusancy fines on any considerable scale caused the authorities for a time to consider a new plan of disposing of the English Catholics. The present article is an attempt to trace the history of this failure and the new plan that resulted from it. Though the years covered by these events witness the high-water mark of the anti-Catholic activity of the Elizabethan government, and though the new plan of dealing with the English Romanists which was then proposed, constitutes another exception to the usual practice of retaining and segregating them within the realm, there is ample evidence throughout of the adherence of the authorities to their fundamental principle of drawing the lines of their Catholic policy in accordance with the dictates of political safety and material welfare.

⁵ 35 Eliz. c. ii., section v.

Never had the problem of the English Catholics been more difficult of solution than in the winter of 1580-1581, and yet never had the need of such solution been more pressing. The crisis in the Netherlands was approaching. Ireland was aflame with revolt. The adherents of the imprisoned Scottish queen were unusually active. The first-fruits of Rheims and Douay were already in the realm; Edmund Campion and Robert Parsons had landed at Dover in June, 1580, and in the year that elapsed before the "wandering vagrant" was captured and the "lurking wolf"⁶ retired to Normandy, the result of their efforts was only too plainly evident in the increased activity of the different groups of English Catholics. The authorities on their side were certainly not asleep. The return of Sir Francis Walsingham to England from his embassy to the Netherlands in October, 1578, was signalized by a series of unprecedentedly strenuous efforts to seek out and punish recusants.⁷ For the next five years this able and strongly Protestant minister, at whose service was an extensive spy-system seldom equalled and never surpassed for efficiency in England, inspired, directed and controlled this branch of the government's activity. Arrests and imprisonments increased by leaps and bounds. In Catholic Lancashire, the queen's officers apprehended sixty men for attending mass, and were told that if they continued as they had begun, they would have to imprison the whole country.⁸ Torture by the rack was employed with a frequency which is in striking contrast to the rest of the reign.⁹ "Mr Norton the Rackmaster", was accused in a seditious book of having vaunted that he had pulled the Jesuit Alexander Briant "one good foot longer than ever God made him".¹⁰ The Spanish ambassador tells us that it was a common practice to drive iron spikes between the nails and the quick—a torment which people in Spain imagined would be employed by Anti-Christ, as the most dreadfully cruel of all.¹¹

But imprisonment and torture were by no means all. Both these

⁶ These were the names applied to the two Jesuits in the Parliamentary debates of that year. *D. N. B.*, XLIII. 413.

⁷ The number of entries on this subject in the State Papers for 1580-1582 is nearly four times as large as that for the three preceding years.

⁸ *Span. Cal.* for Eliz., vol. III., no. 31.

⁹ Cf. D. Jardine, *On the Use of Torture in the Criminal Law of England*, etc., pp. 26-34.

¹⁰ State Papers, Dom., Eliz., vol. CLII., no. 72. The "Mr. Norton" here mentioned is Thomas Norton (1532-1584), lawyer and poet, who conducted the examinations of most of the Catholics who were subjected to torture. He is elsewhere described as "the pyncher with paynes". He is not to be confused with Richard Norton (1488-1588), the centogenarian rebel, who died abroad, a pensioner of Philip of Spain, and was usually known as "Old Norton".

¹¹ *Span. Cal.* for Eliz., vol. III., no. 119.

methods of persecution were expensive, and the authorities were loath to spend money on the Catholics. At all costs they must be made to pay the bills which accrued from the more aggressive attitude which the government had recently adopted towards them. Hitherto the only revenues which had been realized from the English Catholics were the confiscations of the property of those who for one reason or another had incurred the penalties of high treason, provisors and *praemunire*, or felony, the fines of one hundred marks or upwards incident on those "actively depraving" the established service, and the paltry sum of one shilling, forfeited, since 1559, for every unexcused Sunday absence from it. These did not yield enough to support the present active campaign. The obvious way to increase them was to augment the fine incident on absentees from church. Proposals for a Parliamentary statute for this purpose were made at least as early as December, 1580,¹² when the Houses met in the following January, Sir Walter Mildmay, Chancellor of the Exchequer and brother-in-law of Walsingham, made an able and stirring appeal in the Commons for such a measure,¹³ and finally, March 18, 1581, the desired bill was passed under the title of "An Acte to reteine the Queenes Majesties Subjectes in their due Obedience".¹⁴ Its fourth section, which alone concerns us here, imposed the enormous fine of £20 per month on absentees from the English service. The Spanish ambassador gives us a vivid picture of the desperate efforts of the English Catholics to prevent the passage of this act, and of the dread and terror with which they received the news of their failure. They offered the queen 150,000 crowns as a bribe to stop the measure.¹⁵ When, after the statute went into effect, permission was accorded to certain imprisoned Romanists to return to their homes, on condition that they pay the fine and submit to the other provisions of the act, they elected to remain in custody.¹⁶

But the fears of the Catholics were certainly excessive. If the new statute could be enforced, it would doubtless add largely to the income of the queen and greatly weaken and impoverish her foes,

¹² *Span. Cal.* for Eliz., vol. III., no. 57; *State Papers, Dom.*, Eliz., vols. CXXVII., no. 6 and CXXXVI., no. 15.

¹³ D'Ewes, *Journal*, pp. 285-288.

¹⁴ 23 Eliz. c. 1. After Mildmay's speech, which was delivered January 25, a committee was at once appointed to consider the drawing up of the act, which passed its first, second and third readings in the Commons, on February 8, March 4 and March 6, respectively, was sent up to the Lords and read there March 7 and 8 and finally passed March 18. Cf. D'Ewes, *Journal*, pp. 272, 274, 285-288, 293, 302.

¹⁵ *Span. Cal.* for Eliz., vol. III., no. 79.

¹⁶ *Span. Cal.* for Eliz., vol. III., no. 109.

whose condition would indeed be miserable, but the question of enforcement was the *crux* of the whole situation. The omission in the statute of any provision for the seizure and confiscation of lands and goods in default of payment of the fine was to prove serious. Inability to pay the entire sum became at once an excuse for paying nothing at all. The framers of the act had fallen into the grave error of fixing an almost prohibitive amount, and then failing to legislate effectively for the vast majority who could not meet it.¹⁷ The result was what might have been expected: for at least four years after the passage of the statute, there is every reason to think that it was practically inoperative. The unfortunate fact that the Privy Council Register is missing from June 26, 1582, to February 19, 1586, renders it impossible to be absolutely certain in this matter, but the evidence afforded in the different collections of State Papers, the sheriffs' accounts and the Great Roll of the Pipe all point in that direction. In the first place the almost complete absence of any account of measures to collect the fine, or of the income receivable from it in the years 1581–1585, is highly significant, when contrasted with the fullness of information on these topics in the succeeding period. Secondly, there is reason to think that the queen was not over-anxious to see the statute rigidly enforced, and in fact threw her influence in the other direction. She only consented to the passage of the act at the very climax of the crisis in the spring of 1581. The situation was far less acute in the period between 1582 and 1585, and she let her well-known tendency towards leniency to her Catholics subjects be evident in her reluctance to have it take effect. Walsingham complained bitterly of the corruption of the court as a cause of the increase of recusancy.¹⁸ "Her Majesty is slow to believe that the great increase of Papists is of danger to the realm", writes Leicester in the autumn of 1582; "The Lord of His mercye open her eyes."¹⁹ Thirdly, there are several sets of notes and memoranda in Walsingham's hand which give the clearest possible evidence that the queen's minister was profoundly dissatisfied with the working of the statute.²⁰ The most interesting of these are two undated documents which have been assigned by the

¹⁷ The eighth paragraph of the act provided indeed that each delinquent should after three months be "committed to pryon there to remaine untill he have paied the said somes", but as the prisons were full already and imprisonment was expensive and not profitable, this part of the statute practically remained a dead letter.

¹⁸ State Papers, Dom., Eliz., vol. CLVII., no. 51.

¹⁹ *Ibid.*, vol. CLV., no. 42.

²⁰ State Papers, Dom., Eliz., vol. CLI., nos. 72–73 and vol. CLVII., no. 51.

editor of the *Domestic Calendar* to the year 1581.²¹ They are entitled "The causes why her majestie receyvith no greater benefyt of the penaltye of recusantship" and "The remedyes for the evasyons of the recusantes" The first complains of false returns to writs of execution, evasions of recusants by "shifting of places", fraudulent conveyances and undervaluation of lands with intent to defeat the object of the law; the second suggests measures of redress. But perhaps the clearest evidence of the ineffectiveness of the statute in the first few years after its passage is afforded by the history of the government's dealing with the recusants in the period 1585-1587.

The fall of Antwerp in August, 1585, had come as a final proof to Queen Elizabeth of the necessity of adopting active measures in behalf of the United Netherlands, the "strongest bulwark" of England. In September she agreed to dispatch the Earl of Leicester with 6,000 men to the relief of the hard-pressed Dutchmen. It was an expedition necessitated by Spanish and Catholic hostility; and it was therefore eminently fitting and proper, and thoroughly in accordance with the best of Tudor traditions that the English Catholics should contribute to its expense. Commissioners were therefore sent down to the different counties to demand of the local recusants either a number of light-horse "according to their abilitie" or else contributions in money, at the rate of twenty-five pounds for each light-horseman. There were some excuses on the ground of poverty, and some suspiciously opportune and unprecedented attendings of church in disproof of recusancy and the obligations pertaining thereto, but in general the result of the commissioners' efforts was highly satisfactory; a number of light-horse and a considerable sum of money were received by the authorities in the autumn of 1585 and the spring of 1586.²² The contrast between the comparative success of the recent effort to extract a single moderate contribution of twenty-five pounds or its equivalent from the recusants at a crisis with the almost complete failure to gain a regular monthly revenue of twenty pounds from them, was striking and significant. It showed

²¹ State Papers, Dom., Eliz., vol. CLI., nos. 72-73. A number of statements in these documents about the valuation of recusants' lands might be taken to indicate that the document belongs to a later date—when seizure of lands and goods was authorized in default of the payment of the fine—which was not till after 1587. The conjectural dating in the *Calendar* may however in this case be correct, for the statement in regard to recusants' lands can be explained by the fact that a commission was sent out to value them in December, 1580, previous to the passage of the act. Cf. *Span. Cal.* for Eliz., vol. III., no. 57.

²² State Papers, Dom., Eliz., vol. CLXXXIII., nos. 15, 23, 32, 33, 35, 38, 40, 45, 46, 51, 53, 57, 61, 62, 71, 72; vol. CLXXXIV., nos. 41, 45, 46, 61.

the authorities that the enormous demand imposed by the statute of 1581 had overshot the mark, but that a less excessive fine might very likely be enforced. The next proceeding of the government shows that it took this important lesson to heart.

On February 25, 1586, the Council sent a notable letter²³ to the sheriffs and justices of the different shires. It begins with an expression of Her Majesty's satisfaction at the "readye and willinge disposicon" of the local recusants "in yeldinge to the Charge latly layd on them for the providinge and furnishinge of certaine light horses . . . for her highnes present service in the lowe Countries"; it goes on to say that Her Majesty is now content to grant them "some ease and alleuacion" of the penalties "by the Lawes inflicted vpon them for theire disobedience" and finally requires the sheriffs and justices to call all the recusants in their county before them and "requier them to make offer and sett downe euery man accordinge to his particular value what yearly sume he cane be Contented of his owne disposition to allowe as afforsaid, to be discharged of the perill and penaltie of the lawe wherunto they may stand subiecte and liable by reason of their recusancye". For the better guidance of the local authorities, the Council enclosed in each copy of this letter its own list or "scedull" of the recusants in the county to which it was sent, and adjured the sheriffs and justices to get hold of all persons named in it and also "others not named" if possible. As a hint of the government's notion of the proper amount of the recusants' "offerings", the letter goes on to lay down a few rules of proportion, and states that Her Majesty regards those with an annual income of over 240 pounds "gratiouly and favorably dealte withall . . . if she accept the one halfe of the [statutory] penaltie and acquite them of the other", those whose income varies from 240 pounds to 150 "if she takes the thirde parte of their valuation" and those under 150 pounds if she accept a quarter. A number of passages in the letter emphasize the necessity of precautions against undervaluation of property: the "jurors and officers thereunto appointed by her Majestie" having proved "parcial" in times past, the recusants' estimates are to be judged in future only by "sufficient men well affected in Religyon"; such recusants as fail to "deall plainly . . . in openninge the truw state of their liuinge . . . shall aunswer the wholle penaltie inflicted by the Statute in respect of their abuse of her Majesties favour so gratiouly offered vnto them".

²³ State Papers, Dom., Eliz., vol. CLXXXVI., nos. 81-83. Three drafts of this letter exist to-day in the Record Office, all in the hand of one of the clerks of the Council, and copiously corrected and enlarged by Walsingham himself.

If this attempt to secure at least partial enforcement of the statute of 1581 had not come so long after the passage of the act; and perhaps if it had not come so soon after the demand for light-horse, it might have been more successful. The authorities had certainly done wisely in modifying the terms of the original fine, which had defeated itself by its own excessiveness, and in adjusting their demand to the actual conditions of those on whom it was laid. But the fact that the law had been practically inoperative so long, and still more that there was lacking any adequate statutory provision for the treatment of those who failed to pay the fine, made the directions in the Council's letter of February 25, 1586, almost impossible to fulfil. Returns from seventeen different shires with notes of hand of the recusants in them are preserved in the Record Office,²⁴ and they give most interesting and diverse pictures of local conditions. The number of recusants' names in the "scedulae" sent down by the Council varies greatly: that for Hampshire contained seventy; those for Northampton and Durham but six each. Never do the local authorities succeed in finding all the persons named in the Council's list; very rarely do they manage to unearth others: against the names of absentees are entered such statements as "dead two yeres ago", "outlaw in Scotlande", "in the gaole indicted of high treason", "persuaded two yeres ago and comith diligentlie to the churche", "non inventus", "out of the shire", "thought to be in France", "in Wisbiche", "no recusant", "hath receaved and been partaker of the Holie Communion", "pretendeth that he hathe a dispensation"—all of which goes to show (particularly for the remote counties) that the Council's information was not up to date. Of those who were actually haled before the authorities, a large proportion are reported as "of no abillitie", "nothing worthe", or "nil"; many "offerings" are made of less than five pounds (some of them only ten shillings); anything over fifty pounds is decidedly the exception. Most of the notes of hand are half-pathetic, half-ludicrous corroborations of the reports of the authorities; those of the poorer recusants are not infrequently signed with "a marke". The opinion of the local authorities on the fairness of the recusants' offers is not seldom given, and very variously: while the Staffordshire officers maintained that the recusants in their county had "sett downe as moche (their estates considered) as their abilities will well stretch vnto", those of Buckingham held the offers in their shire "slendre

²⁴ State Papers, Dom., Eliz., vol. CLXXXVII., nos. 45, 48, 49, 64; vol. CLXXXVIII., nos. 9, 15, 16, 29, 32, 38, 42, 51; vol. CLXXXIX., nos. 2, 17, 47, 48; vol. CXC., no. 11.

in respect of such an Immunitie from soe greate penalties of the lawe as they be subiect to for their vngodly and contemptuouse course of liefē". But in general it is clear that less was realized from the new plan of "compositions for recusansye" than had been expected. In October, 1586, after most of the reports from the different shires had come in, Walsingham drew up another rather grumbling set of "Observations in the offers of the Recusantes"²⁵ which clearly reflects his dissatisfaction. The lists were imperfect; the recusants had not been "pressed . . . to deliuer their livelihodes"; in estimating their property they gave only the lands lying in the county where they were called up, though "seased of far greater possessions in other shires", "manie . . . rated their Liuinges" according to ancient and obsolete "rents of assesse" and "by that proportion frame their offers"; some were "of so great Alliance and partie in the countie" that the authorities dared not "certifie the iuste values"; "manie . . . in divers counties . . . com to Church but receiue not [the Sacrament] and so escape the penaltie of the statute". The fine imposed by the statute of 1581 was no longer an absolutely dead letter perhaps, but it certainly yielded far less than its framers had looked for.

It was doubtless the increasingly threatening situation at home and abroad in the winter of 1586-1587 that caused the passage in Elizabeth's sixth parliament of the act that was to make the statute of 1581 for the first time reasonably effective in practice. It has already been pointed out that the great fault of the Act of 1581 was its failure to provide for the seizure and confiscation of the property of those who failed to pay the fine; this omission was now rectified by an enactment, which in addition to regulating the ways and times of such payment, provided that in default of it, the Queen's Majesty might seize and enjoy all the goods and two-thirds of the lands, tenements, etc., of the delinquent.²⁶ From the moment that act went into effect, the revenues the government derived from recusancy began to increase with gratifying rapidity.²⁷ Doubtless

²⁵ State Papers, Dom., Eliz., vol. CXCIV., no. 73.

²⁶ 29 Eliz. c. vi. This bill passed its first, second and third readings in the Commons, March 14, 16 and 18, respectively, was sent up to the Lords and finally passed there March 20. D'Ewes, pp. 387-388 and 415-417. There was apparently no opposition.

²⁷ The State Papers and accounts from 1588 to the close of the reign furnish ample evidence of this. The whole problem of the recusancy fines was organized and systematized as never before, queen and Council uniting in a strenuous effort to make the English Catholics a really effective source of revenue. The work of rounding up the recusants and valuing their lands was taken from the local authorities and given to minions of the Council, who, entirely removed from local

Parliament and Council, if left to themselves, would have been glad to pass it earlier. But it needed a supreme crisis to make Queen Elizabeth shake off her natural tendency towards leniency to her Catholic subjects, just as it needed a supreme crisis to conquer her aversion to war with Spain. From the nature of the case it is impossible to prove it, but there is strong reason to suppose that it was chiefly her influence that delayed so long the passage of the one measure that alone could render really effective the Act of 1581.

The discussion of the events of 1585-1586 which led to the passage of the Act of 1587 and consequently to the first really prejudices, went about their business in the most cold-blooded spirit and with the sole idea of gaining revenue for the crown. Their activity moreover was usually stimulated by a promise of an "allowance out of the forfeitures" they should secure, and also by the first chance to buy from the queen the lease of confiscated recusants' lands (State Papers, Dom., Eliz., vol. CCXXIX., no. 68). The consequent sudden increase in the number of the incoming items naturally overburdened the Great Roll of the Pipe; the copying and arranging of them was a task of great expense and difficulty (*ibid.*, vol. CCXLI., no. 66), so that in 1591-1592 it was deemed wise to inaugurate a separate account for the recusancy revenues alone. Thus originated the Recusant Rolls, in two sets (the Chancellors Series and the Pipe Series); the latter are continuous down to 1686, save for the years 1650, 1659, 1661-1663 and 1670-1674, which are missing. In these Recusant Rolls, the rents paid and payable by lessees of confiscated lands are entered indiscriminately with the twenty-pound fines paid and payable by those recusants who were able to do so (Gardiner tells us that at the death of Elizabeth there were but sixteen of these in the realm. *History of England*, I. 96); sums actually paid by the government are usually indicated by the addition of the phrase "Quietus est"; sums due, but not paid on the first demand, by the words "Fiat Commisso". The fines and rents were usually collected semi-annually—at Michaelmas and Easter—and it is interesting to note, as an evidence of the firm intention of the authorities to exact the uttermost farthing, that in the case of those who paid the fine, the months were often reckoned (as by Oliver Cromwell with the first Protectorate Parliament) on the lunar not the calendar basis, so that the yearly sum became 260 instead of 240 pounds. An accurate estimate of the amount annually realized by the government from recusancy is almost impossible to obtain. A document in the Record Office (State Papers, Dom., Eliz., vol. CCLI., no. 53), dated "Xmo Martii 1594[5]", entitled "The names of the Recusantes with their several sommes of monie paide into the Receipte since Michaelmas last", and signed "Edw. Wardour, Clericum pellum" gives the total for the half-year as £3323, 1s. and 10d.; but at the close of the account Wardour sagely reflects as follows: "There is as I verelie thinke much more monie risinge by Recusantes which is still paide to the Sheriffes of the Countys, and so past in theirre particuler accoumptes in the piep office"—(a conjecture which is corroborated by various statements in the Recusant Rolls for the same year such as "seu ad receptorem Scaccarii, . . . [soluta], seu ad manus vicecomitis", Rec. Rolls 37 Eliz., Bucks) and finally suggests "that all monie growinge therby should be particulerlie paide into the Receipte". Whether this suggestion was acted upon or not, I have been unable to discover, but there is strong reason to think that more revenue came in to the queen from her Catholic subjects at the end of the reign, than was regularly accounted for under that head. Cf. W. H. Frere, *English Church under Elizabeth and James I.*, pp. 214, 265-267, 337.

effective operation of the Act of 1581, have carried us somewhat past the period where the rest of our story lies—the period previous to 1584, when the Act of 1581, at least as far as the twenty-pound fine went, was practically a dead letter. The early failure of that statute naturally led the government to consider other means of dealing with the English Catholics. Imprisonment and segregation had proved expensive, banishment to the Continent was in most cases deemed dangerous. Yet the critical situation at home and abroad dictated the necessity of action of some sort. Among several different solutions of the problem which suggested themselves to the authorities there is one—for a short time strenuously advocated, and probably originated by Sir Francis Walsingham himself—which deserves more attention than it has hitherto received,²⁸ though it was never actually carried out in practice. This was nothing less than a plan to transport some of the English Catholics to North America, with the idea of ridding the realm of their presence, and yet not incurring the risks which banishment to the Continent might entail. In order to see how this scheme took shape we must pause for a moment and examine briefly the biography of the man with whom it is chiefly connected—a certain Sir George Peckham of Denham, Bucks.²⁹

Born about the year 1535, this man had succeeded in 1569 to the extensive estates and considerable property which his father, famous as treasurer of the mint under Henry VIII. and Mary, had gathered in at the dissolution of the monasteries. He was a kinsman of Henry Wriothesley, third earl of Southampton, the patron of Shakespeare: indeed the first earl of Southampton had received his earliest preferment at the court of Henry VIII. through the influence of Peckham's father, in whose house he had dwelt for eight or nine years.³⁰ The latter had lived and died a zealous Catholic; his two eldest sons, Robert and Henry, were also loyal to the ancient faith: the former even exiled himself from his native land at the

²⁸ J. G. Shea (*History of the Catholic Church in the U. S.*, I. 19-24) and Father T. Hughes (*History of the Society of Jesus in North America*, I. 146-149) both discuss this project, but without adequate knowledge of all the available material.

²⁹ The principal authorities on Peckham's life are given at the close of the brief account of him in the *D. N. B.* To that list may be added R. H. Lathbury's *History of Denham* (Uxbridge, 1904); T. G. Law's "Devil Hunting in Elizabethan England" in the *Nineteenth Century* for March, 1894; and the *Victoria History of the County of Buckingham*, *passim*. The present writer expects soon to print certain unpublished documents and additional information concerning Peckham in the *Proceedings of the Massachusetts Historical Society*.

³⁰ B. M. Lansd., 61, p. 204.

accession of Elizabeth for religion's sake and died in Rome in 1569. But with the third son, George, with whom we are now concerned, the case was very different. Up to 1578 there is not the slightest indication that he adhered to the Roman faith, and even later we have no evidence that he ever in his life openly professed it. It is true that when Queen Elizabeth visited him at Denham in 1570, the cautious sovereign—remembering the Catholic traditions of the place—took care to have a new door made for her bedchamber and to provide an enormous number of "lokes", "boltes", staples and hinges for the better securing of it;³¹ but her precautions were unnecessary, and she was sufficiently pleased with the welcome she had received to confer on her host the honor of knighthood. Peckham's loyalty in politics and religion is further proved by his appointment as high sheriff of Buckingham in 1573,³² and by the confidence and respect of the Lords of the Council, who from 1573 to 1578 literally deluged him with a series of orders to settle land-disputes, keep an eye on suspected persons and deal with other similar matters.³³ His name does not appear on any of the lists of local Catholics nor later on the Recusant Rolls, and it is significant that he built a church for the parish of Denham in 1580.³⁴

But though we have no evidence that he ever openly professed the Catholic faith, it is perfectly clear in the later seventies that his sympathies for it and its adherents were at last stirred in a way which caused him for the first time in his life to take active measures in its behalf. Through the influence of his second wife, the daughter of his neighbor David Penne, a notorious recusant, he was led into the serious offense of giving funds to the keepers of London prisons to be distributed to the captives there for religion's sake, and also into the much weightier crime of giving shelter to the Jesuit Campion. On these two charges he was examined before the Council, December 21, 1580, and imprisoned: his early release, March 1, 1581, under a thousand-pound bond is doubtless to be explained on the ground of the confidence of the government and his own previous good record.³⁵ But Peckham's efforts on behalf of the English Catholics did not cease there. For some time past

³¹ Bib. Bodl. Rawl. MSS., 195 C, f. 318 b.

³² B. M. Cart. Harl., 84 C, 37, 38.

³³ B. M. Cart. Harl., 84 C, 32, 37, 38; 84 I, 6; 85 E, 49; 85 G, 41; 86 B, 2, 3, 11, 20, 22-24; 112 C, 8. *Acts of the Privy Council*, VIII. 117, 118, 122-123, 136, 232, 357; IX. 239; X. 155, 191; XII. 92.

³⁴ Lipscomb's *Buckinghamshire*, IV. 457.

³⁵ State Papers, Dom., Eliz., vol. CXLIV., nos. 56, 57, 58; vol. CXLVII., no. 4. *Acts of the Privy Council*, XII. 282-283, 291, 296, 325, 346.

he had been intimate with Sir Thomas Gerard, a notorious papist, who had already been in prison for an attempt to liberate Mary Queen of Scots; in 1580 a marriage between the children of the two men rendered the bond that united them closer.³⁶ For the next six years they were almost inseparable, and busily engaged in the prosecution of new schemes for the relief of the English Romanists. The nature and extent of these schemes will soon be apparent.

As early as the year 1574, we know that Peckham had been interested in American exploration. In March of that year he had signed, in company with Sir Humphrey Gilbert and other gentlemen, a petition to the queen to be allowed to undertake a voyage of discovery in Western waters.³⁷ Nothing came of it at the time, and though Gilbert steadily pursued his efforts to gain a charter till at last he was successful in 1578,³⁸ Peckham had apparently lost interest in the matter. But after his imprisonment in the winter of 1580-1581, and after the passage of the law of March 18, 1581, which doubtless terrified him as it did others, in a way which its early non-enforcement scarcely warranted, he returned to the project of American exploration again; this time distinctly with the idea of finding a refuge in this country for oppressed recusants. Sir Thomas Gerard eagerly supported him. On June 6, 1582, they signed articles of agreement concerning their proposed expedition with Sir H. Gilbert, whose prospects of sailing were now brighter and more immediate than ever before; and whose fears of the Catholicism of his associates were much less than his need of the funds which they were prepared to contribute.³⁹

It now remains to examine the very important question of the attitude of the English government, represented by Sir Francis Walsingham, toward this new scheme of Peckham and Gerard. It is certain that the queen's minister had heard of it at least as early as April, 1582 (nearly seven weeks before the signature of the above-mentioned articles of agreement of Peckham, Gerard and Gilbert), a letter from a spy dated the nineteenth of that month gave him the gist of the whole matter.⁴⁰ But that is by no means all. There is also strong reason to think that Walsingham knew of

³⁶ Lathbury, p. 274. Gerard was of course the father of Father John Gerard of Gunpowder Plot fame. On him see J. Morris, *Condition of the Catholics under James I.*, pp. ix, x, ccilii, 26, 27.

³⁷ *Cal. Col. Add.*, 1574-1674, no. 1.

³⁸ *Ibid.*, no. 3.

³⁹ *Ibid.*, nos. 14-15.

⁴⁰ *Ibid.*, no. 13.

the plan even earlier than that, nay more that he was the one who actually put into Peckham's and Gerard's heads, for purposes of his own, the idea of transporting Catholics to North America; and it is certain that from the very outset he favored the project heart and soul. It has already been pointed out that the general situation in 1582-1583 was such as would naturally cause the queen's minister to welcome an opportunity safely to dispose of a portion of the English Catholics. The measures already taken against them had proved inadequate and expensive; the realm was in danger: the plan that recommended itself to Peckham and Gerard as a measure to save the recusants from persecution would naturally appeal to the government as a means of gaining safety for England at a serious crisis. But there is far more definite and specific evidence of Walsingham's interest in and furtherance of Peckham's and Gerard's project than this. The limits of this article forbid the discussion of all the various documents in the Record Office and elsewhere⁴¹ which bear on the proposed expedition and the government's attitude towards it: but it is hoped that an analysis of the three most important ones will make clear the relations of the parties concerned.

The first is a set of articles of petition sent to Walsingham by Peckham and Gerard, probably in the spring of 1582,⁴² asking for license to "all souche persons whose names shall be sett downe in a booke Indented for that purpose" to travel into certain heathen lands, granted to the petitioners by Sir Humphrey Gilbert, Knight. The last five paragraphs are of sufficient importance for the present purpose to be quoted in full. They read as follows:

Item, the recusantes of Abilitie that will travell as aforesaide maie have libertie vpon discharge of the penallties dewe to her Majestie in that behalfe to prepare themselves for the saide voiage.

Item that other recusantes not havinge to satisfie thesaide penaltie maie not with standinge have lyke libertie to provide As aforesaide And

⁴¹ *Ut supra* and Close Roll 24 Eliz., part 6, no. 1126; 25 Eliz., part 7, no. 1153, and part 8. State Papers, Dom., Eliz., vol. CXLVI, no. 40; vol. CLV., no. 86; vol. CLVI., no. 13; vol. CLVIII., no. 59; vol. CLXI., no. 44; vol. CLXV., no. 35. These are summarized in *Cal. Col. Add.*, 1574-1674, pp. 8-24. See also Hakluyt's *Voyages* (edition of 1903-1905), VIII. 41, 131; and *Documentos Inéditos*, vol. 92, pp. 396-398.

⁴² State Papers, Dom., Eliz., vol. CXLVI., no. 40. This document was erroneously assigned to the year 1580 by the editor of the *Domestic Calendar* (vol. for 1547-1580, p. 695), while the *Colonial Calendar* places it conjecturally in August, 1582 (*Cal. Col. Add.*, 1574-1674, p. 12). I incline to place it in the spring of that year for reasons which appear later. The document is printed in full in Shea, I. 20-22.

to sta[nde] charged for the paiment of the saide penallties vntill souche tyme as god shall make them able to paie thesame.

Item that none vnder Colour of thesaide lycence shall departe owte of the Realme vnto any other forein Christian Realme.

Item that they nor anye of them shall doo any Acte tendinge to the breache of the leage betwene her Majestie and any other Prince in amytie with her highnes neither to the priuicide of her Majestie or this Realme.

Item that the xth. person which they shall carrie with theim shalbe souche as have not Any certainetie wherewpon to lyve or mainetaine themselves in Englande.

It is quite obvious in all these clauses that Peckham and Gerard had learned on what conditions the government would consent to the recusant emigration which they desired. The first two savor of a despairing attempt to collect the statutory fine before departure, the next two indicate the solicitude of the authorities that the national safety should not be endangered by the escape of Catholics to Continental Europe, or by trespass on the American lands of the King of Spain; the last looks like a frank attempt to get rid of a certain proportion of very poor recusants—a foreshadowing in fact of the famous clause in the Act of 1593.⁴³ The way in which the provisions of the petition squared with the interests of the man to whom it was addressed is very striking. Is it too much to conjecture (especially when we consider that it was a favorite practice of Tudor statesmen to evade the responsibility for measures which they originated, by forcing others to petition for them)⁴⁴ that Peckham and Gerard sent this request to the queen's minister at his own suggestion, and with the certain foreknowledge that he would, as indeed he did, accept it? The other documents that remain to be examined would tend to bear out this conclusion.

A draft of a letter, unsigned and unaddressed, dated in the year 1583, though without month or day, next claims our attention. It reads as follows:

After my Hartie Commendacions whereas I am enformed by Mr Anthonie Brigham that vpon some cōference he findeth in you a verie good enclynacion to the westerne discoueries so as you maie be sufficientlie authorised so to doe and haue a Societie by yourselves without ioigning with anie gent or anie other Citties or Townes other then souche as yourself shall make choice of. I am of opinion you shall doo

⁴³ Father Hughes (I. 148) takes this clause to mean "liberty for a tenth part of the whole company to consist of servants or able-bodied retainers", but fails to adduce any additional evidence in support of this somewhat startling interpretation.

⁴⁴ Compare the origin of the "Supplication of the Commons against the Ordinances" in January, 1532, and of the First Act of Annates of the same year.

well to herken vnto suche offers as Sir Philipp Sidney and Sir George Peckham will make vnto you who have sufficient Auctoritie by and under her Majesties Letteres patentes to perorme the effect of your Desire. No whit mystrusteng but that this voiaige will prove proffitable to thadventurers in particler and generallie beneficiale to the whole realme. So expecteinge you aunswere I bidd you hartelie farewell the daie of

1583

Your loveing Freind

As the style of this letter particularly towards its close bears strong resemblance to that of Walsingham, and as the handwriting is identical with that in which much of his correspondence is written, I conclude that it emanated from the queen's minister.⁴⁵ It was probably intended to be sent to a number of different persons—a circular letter in fact. Its contents certainly afford good evidence of the secretary's desire to advance the expedition of Peckham and Gerard. The appearance in it of the name of Sir Philip Sidney is a further corroboration of this conclusion. That young knight was at this moment a suitor for the hand of the daughter of Walsingham, who favored the match but felt that Sidney's poverty was an insuperable obstacle. Since July 7, 1582,⁴⁶ Sidney had been possessed of an American patent of considerable value: he was now desirous of selling it in order to gain the money necessary for his marriage, and Walsingham was anxious to help him. In July, 1583, a purchaser was found in Peckham himself,⁴⁷ who was just then pursuing his emigration scheme more energetically than ever: Sidney was thereby enabled to withdraw from the "adventurers", and in September wedded the lady of his choice.

The other document that remains to be presented is a passage in a letter from the Spanish ambassador, Bernardino de Mendoza, to his master, Philip II., dated at London, July 11, 1582. It summarizes and corroborates the conclusions to which the evidence

⁴⁵ State Papers, Dom., Eliz., vol. CLXV., no. 35. The calendaring of this document (*Cal. Col. Add.*, 1574-1674, no. 30) can only be described as extraordinary. It is such as to imply that the letter was written to Walsingham. There is not a scintilla of evidence to support this save the use of the word "for" in the endorsement, which is as follows: "The mynute of a lettere for Mr Secretary"; and this can be equally well explained on the ground that it was a draft "for Mr Secretary" to approve or sign. All the rest of the evidence strongly favors the assumption that it was from Walsingham. The expressions at the beginning and end are those most frequently used in Tudor times by people of high rank and office when addressing inferior or unknown persons.

⁴⁶ Close Roll 25 Eliz., part 7, no. 1153. This document is erroneously assigned to the year 1583 in the *Cal. Col. Add.*, 1574-1674 (p. 22), through confusion of the dates of execution and enrollment of the agreement. Mr. E. Salisbury of the Public Record Office kindly furnished me this information.

⁴⁷ *Cal. Col. Add.*, 1574-1674, no. 29.

already afforded clearly points the way. The following translation of it by Major Martin Hume appears in the third volume of the *Spanish Calendar* for the reign of Elizabeth.⁴⁸

As I wrote some time ago, Humphrey Gilbert was fitting out ships to gain a footing in Florida, and in order to make this not only prejudicial to your Majesty's interests, but injurious to the Catholics here, whilst benefiting the heretics, Walsingham indirectly approached two Catholic gentlemen, whose estate had been ruined, and intimated to them that, if they would help Humphrey Gilbert in the voyage their lives and liberties might be saved, and the Queen, in consideration of the service, might be asked to allow them to settle there (Florida) in the enjoyment of freedom of conscience and of their property in England, for which purpose they might avail themselves of the intercession of Philip Sidney. As they were desirous of living as Catholics, without endangering their lives, they thought the proposal was a good one, and they gave an account of it to other Catholics, who also approved of it, and offered to aid the enterprise with money. Petitions were presented to the Queen upon the subject, and she has granted them a patent under the Great Seal of England to colonize Florida on the banks of the river Norumbeage where they are to be allowed to live as their conscience dictates, and to enjoy such revenues as they may possess in England. This privilege is not confined to those who leave here for the purpose of colonization, but is extended to all Englishmen away from England, even to those who may have been declared rebels, and whom the Queen now restores to her grace and favour, embracing them once more as loyal subjects. The only object of this is to weaken and destroy them by any means, since they have now discovered that persecution, imprisonment, and the shedding of martyrs' blood only increase the number of Catholics; and if the proposed measure be adopted the seminaries abroad cannot be maintained, nor would it be possible for the priests who come hither to continue their propaganda, if there were no persons here to shelter and support them. By this means what little sound blood be left in this diseased body would be drained. I gave notice to the Catholics, through the priests who go amongst them, what was the real object of the Queen and Council in extending this favour to them, and also that the country in question belonged to your Majesty and was defended by fortresses, so that directly they landed they would be slaughtered as Jean Ribaut was. In addition to this, I say, that their consciences will be touched, as they will be acting against the interests of His Holiness, who should be informed of the matter through Dr. Allen, so that they, the Catholics, might learn whether they could properly undertake the voyage.

This action of mine has caused some of them to withdraw whilst others, out of indifference, persist in their intention, believing that it is not really against your Majesty, because in the map the country is

⁴⁸ Pp. 384-385. Printed in full (like many of the other letters translated and summarized in the *Spanish Calendars*) in the *Documentos Inéditos*, vol. 92, pp. 396-400. Major Hume kindly sent me a copy of his transcription of the original document in Simancas, which is practically identical with the version in the *Documentos Inéditos*. The translation in the *Calendar* is a faithful rendering of both.

called "New France", which, they say, proves that it was discovered by Frenchmen, and that since Cortés fitted out ships on the coast to go and conquer countries for the Catholic church, they could do the same. I have also written about it to the Abbot Briceño in Rome, as well as to Dr. Allen, pointing out how important it is that they should make every effort to prevent the enterprise in the interest of the conversion of England.

This letter, if it can be relied on at all, not only shows that Walsingham originated and favored the project of sending the English Catholics to this country, with the idea of ridding the realm of their presence; but also that Mendoza saw through the minister's plan, made up his mind that it would weaken, rather than relieve Catholicism in England and therefore set himself strenuously to oppose it. He might have saved himself the trouble indeed, for the disaster to Gilbert's expedition⁴⁹ which finally sailed precisely eleven months after he had written this letter put an end for the time being to the whole affair, despite the efforts of Peckham, who issued a notable pamphlet on the advantages of American colonization,⁵⁰ with the idea of stirring people up to a renewal of the attempt. The story of the rest of Peckham's life is interesting but scarcely germane to the present subject, for he busied himself about other matters till his death in 1608.⁵¹ There is no record of any attempt by a Catholic to repeat the experiment which he had made in the reign of Queen Elizabeth. In the second year of the reign of James I. a certain Mr. Winslade "with a Spanish and traitorous heart" proposed to Father Parsons, then stationed as rector of the English College at Rome, a scheme of Catholic emigration to America, similar to that of Peckham, but was dissuaded from pursuing it further by the strong disapprobation of the Jesuit leader.⁵² The letter in which Father Parsons condemned the plan is a very noteworthy vindication, from the Catholic point of view, of the attitude of Mendoza in 1582: specific reference is made in it to the project of Peckham and Gerard, the same adverse arguments—the arousing of the jealousy of the King of Spain by prob-

⁴⁹ September, 1583. Peckham and Gerard had of course remained in England.

⁵⁰ Printed in Hakluyt's *Voyages*, VIII. 89 ff.

⁵¹ In 1585-1586 he lent his ancestral estate at Denham for the purposes of John Darrell and Father William Weston, the exorcists, whose doings there are described in detail in Harsnett's *Egregious Popish Impostures*. (1603), and more recently in the *Nineteenth Century* for March, 1894, by T. G. Law. After 1586 Peckham lost his property, and the remainder of his life is for the most part a sad commentary on the horrors of debtors' prisons in the reign of Elizabeth.

⁵² On Winslade, see Hughes, I. 153 ff.; Shea, I. 25; H. Foley, *Records of the English Province of the S. J.*, IV. 169 ff.; Christopher Green, S. J., *Collectanea*, part I., f. 337 b and B. M. Add., 21, 203, Plut. CIII F.

able trespassing on his American lands, prejudice to the cause of Catholicity in England, by diminution of the Catholic body there, etc.—are advanced.⁵³ Faint traces of other similar attempts are discernible in the history of the next twenty-five years;⁵⁴ finally, under widely different circumstances, a home was found for the oppressed Catholics by Lord Baltimore in Maryland in 1634. But the other side of the picture should not be forgotten. Long before this country became a haven of refuge for religious dissenters—Catholic or Puritan—the English government planned to utilize it as a means of safely disposing of the former, an overflow for a dangerous and undesirable portion of the population, a sort of penal colony or Botany Bay. It was doubtless as practical and inexpensive a solution of the problem that confronted the authorities in 1582–1583 as could have been devised. That it was so strenuously opposed by the Catholic leaders is ample proof of its effectiveness from the government's point of view.

ROGER BIGELOW MERRIMAN.

⁵³ Printed in full in Hughes, *Documents*, I. 3–5.

⁵⁴ Cf. the careers of Captain George Weymouth, Edward Maria Wingfield, Andrew White and Thomas Lord Arundell of Wardour. See Shea, I. 25–27, D. N. B. and Hughes, I. 155 ff.